

REMARKS

The Official Action of 30 June 2006 has been carefully considered and reconsideration of the application as amended is respectfully requested.

Applicant hereby affirms his election to prosecute in the present application the claims of Group II, i.e. claims 2-6. Claim 2 has now been amended to incorporate the recitations formerly in claim 3 (now canceled). Withdrawn claim 9 has been amended to incorporate the recitations formerly in claim 10 (now canceled) and has been depended from claim 2 to facilitate its rejoinder upon the allowance of an elected product claim (see MPEP 821.04).

Claims 2-6 stand rejected under 35 USC 101 because the claimed invention is allegedly not supported by either a specific or substantial utility or a well established utility. Applicant respectfully traverses these rejections.

Applicant has amended claim 2 such that it is now directed to the isolated nucleic acid comprising the nucleotide sequence of SEQ ID NO: 1. Paragraph [0004] states that the claimed nucleotide sequence can be used for the diagnosis of, for example, T cell lymphoblastic. Original claim 10 indicates this as well. Paragraphs [0054] to [0057] of the specification clearly disclose that the expression level of RPS6KA6V relative to RPS6KA6 may be measured by well-known methods and may be a useful indicator for screening patients suspected of having cancers. The example and data provided in paragraphs [0067] to

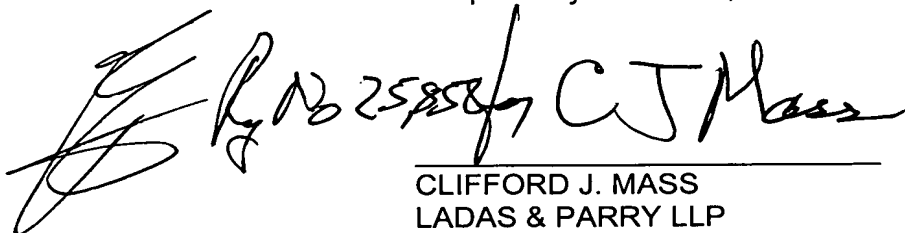
[0068] and Figs. 4 and 5 clearly show that the claimed nucleic acid has a utility in diagnosing T-cell lymphoblastic lymphoma.

Applicant respectfully submits that the above assertions of utility in the specification as filed creates a presumption that the requirements for a specific and substantial utility under 35 USC 101 have been satisfied. See MPEP 2107.02(III)(A) ("As a matter of Patent Office practice, a specification which contains a disclosure of utility which corresponds in scope to the subject matter sought to be patented must be taken as sufficient to satisfy the utility requirement of §§ 101 for the entire claimed subject matter unless there is a reason for one skilled in the art to question the objective truth of the statement of utility or its scope." Emphasis in original.).

Moreover, Applicant respectfully submits that the Examiner does not have a basis upon which to question the credibility of the disclosed (presumptively credible) utility. Applicant's specification discloses a method for diagnosing a specific disease condition, and Applicant respectfully submits that, in the absence of any reason to question the credibility of this utility, the rejection of record should be withdrawn. See MPEP 2107.02(III).

In view of the above, Applicants respectfully submit that all rejections and objections of record have been overcome and that the application is now in allowable form. An early notice of allowance is earnestly solicited and is believed to be fully warranted.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "CJ Mass", is written over a horizontal line. To the left of the signature, there is some additional handwritten text that is partially obscured and difficult to decipher, possibly including "By 12/25/88".

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